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Arnold Schwarzenegger, Governor
Dale Bonner, Secretary, Business, Transportation and Housing Agency

MORTGAGE LOAN BULLETIN

Fall 2007

Commissioner's message

The new millennium rang in with a 5-year span of unparalleled growth in the real estate market. However, as in most business cycles, years of growth are followed by periods of correction. It is now clear the market is transitioning, and with it, California is experiencing a heightened level of defaults and foreclosures. Financially distressed borrowers are likely to turn to you as mortgage professionals for guidance. In this regard, when financially stressed borrowers contact you, I want to encourage you to assist those individuals. First and foremost, I believe the prudent initial step should be assisting a borrower in making contact with their lenders so that they may obtain, through their lender, an arrangement that provides, as necessary and appropriate,

modified loan terms or converted products with predictable and manageable payments. Although I understand lending a hand to a borrower in this way will not lead to any compensation, it is the right thing to do. Through these efforts, we can help preserve homeownership and avoid foreclosures.

In addition, as real estate licensees, it is worth remembering we owe certain fiduciary duties to our clients when acting as their agent and California statutory law imposes other duties as well. These include the duty of full and complete disclosure. Thus, it is incumbent upon licensees who arrange loans to completely detail the terms of those loans when consulting with potential borrowers. This includes providing a thorough explanation of the rates at which interest

can accrue, the relative merits and risks of the loan products offered, and the effects of deferred interest, well before the point of the borrower signing the loan documents. It has become clear as more and more disciplinary cases are coming before me, that some brokers have set aside their duties in exchange for profits. Such actions hurt consumers, tarnish the profession, and will not be tolerated.

In fact, to help address the risks and concerns associated with nontraditional and subprime loans, federal regulators have issued the Interagency Guidance on Nontraditional Mortgage Products

Continued on page 8



New mortgage loan disclosure statement for nontraditional mortgage loans

In order to promote the full disclosure of loan terms to consumers applying for "nontraditional mortgage products" the DRE has adopted a new disclosure statement specifically for these types of mortgages. A nontraditional mortgage product is one that is secured by one to four residential units and allows borrowers to defer repayment of principal or interest, including all interest-only products and negative amortization mortgages. A nontraditional mortgage product does not include reverse mortgages or Home Equity Lines of Credit (HELOCs) other than simultaneous second-lien loans (piggybacks). The definition is based on Senate Bill 385 (Machado) and on the "Interagency Guidance on Nontraditional Mortgage Product Risks" issued by the Federal Reserve and member agencies and adopted by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR).

The new disclosure, "Mortgage Loan Disclosure Statement/Good Faith Estimate—Nontraditional Mortgage Product (One to Four Residential Units)" (RE 885), is required to be given to borrowers pursuant to Commissioner's Regulation 2842. The disclosure provides specific details on the terms of these loan products in order to increase the consumer's understanding of the risks involved when committing to a nontraditional loan. These risks were described in our article in the November/December 2005 issue of "Mortgage Matters" (California Association of Mortgage Brokers) and in the spring 2007 issue of this bulletin and the Real Estate Bulletin.

More than traditional ARMs, mortgage products such as Payment-Option ARMs and interest-only mortgages carry a significant risk of payment shock and negative amortiza-

Continued on page 5

MORTGAGE LOAN BULLETIN

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STATE OF CALIFORNIA
ARNOLD SCHWARZENEGGER
Governor

BUSINESS, TRANSPORTATION AND
HOUSING AGENCY
DALE BONNER
Secretary

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DRE's Internet address is:
<http://www.dre.ca.gov>




New advertising requirements

Licensees who include payments in their advertising of adjustable rate, interest-only or payment-option loans must now comply with Commissioner's Regulation 2848(a)(17). Specifically, the Regulation requires the equally prominent disclosure of the following:

1. Principal amount
2. Term of loan
3. Initial interest rate
4. Number of months the initial interest rate will be in effect
5. Fully-indexed interest rate
6. Maximum interest rate
7. If different, an explanation of the difference between the payment rate, initial interest rate and fully-indexed rate
8. Annual percentage rate
9. How often the interest rate and payments can change
10. Maximum periodic change in the interest rate and payments (periodic caps)
11. Number of months and percentage of original loan amount after which minimum payments will not be accepted and the loan re-amortizes
12. The monthly payment based on the maximum interest rate, and the loan balance after all negative amortization is included, assuming minimum payments are made
13. If the loan contains a prepayment penalty, a statement to that effect
14. If the loan contains a balloon payment, a statement to that effect

Also, pursuant to Commissioner's Regulation 2848(a)(18), licensees who advertise stated income, stated asset, no doc, low doc, no ratio or similar loan products must include a statement that these products may have a higher interest rate, more points or more fees than other products requiring documentation.

Advertising that fails to comply with Commissioner's Regulation 2848 will be brought to the attention of the broker or the designated officer in the case of a licensed corporation. The DRE will take formal action as necessary to halt the publication of false, misleading or deceptive advertising. Brokers and designated officers must ensure that their mortgage loan advertising is in full compliance and should review any advertising proposed by their sales staffs before it is published.

The DRE will review proposed advertising submitted for approval using the "Mortgage Loan Advertising Submittal" (RE 884). Information on advertising can be found in the "Mortgage Loan Broker Compliance Evaluation Manual" and reference is made to the statutes and regulations that must be followed. Both the submission form and manual are available on the DRE Web site at www.dre.ca.gov. See the accompanying article "DRE Taking Formal Action for False Advertising" on page 9 of this issue. 

Disciplinary Action: October 06 - September 07

- The following individuals and real estate corporations engaging in mortgage loan activities were the subject of license disciplinary actions or the issuance of a Desist and Refrain Order for one or more violations of the Real Estate Law, the Regulations of the Real Estate Commissioner or the conviction of a crime.
- A list of actions is not published in this *Bulletin* until the 30-day period allowed for court appeal has expired, or if an appeal is filed and the disciplinary action is stayed, until the stay is dissolved. Names of persons to whom licenses are denied on application are not published.
- Licensees are listed alphabetically by District Office region of responsibility.
- Where the type of discipline indicates “*Suspended*” the license may be indefinitely suspended; suspended with a stay; or the suspension released upon payment of a monetary fine. Details of the suspension of a real estate license may be found on the Department’s Web site at www.dre.ca.gov and using the “Check License Status” function to look up the license of an individual corporation, broker or salesperson.

REVOKED LICENSES

FRESNO REGION

Pearlberg, Neil
License ID: 01223105
License Type: Broker
Effective: 07/17/07

LOS ANGELES REGION

4M Mortgage Inc.
License ID: 01342466
License Type: Corporation
Effective: 05/22/07

A Franklin Financial, Inc.
License ID: 01378058
License Type: Corporation
Effective: 01/05/07

American Network Financial
License ID: 01338966
License Type: Corporation
Effective: 05/21/07

Brennan, Lawrence
License ID: 00471555
License Type: Broker
Effective: 05/22/07

Choice Financial Funding Inc.
License ID: 01392032
License Type: Corporation
Effective: 11/20/06

Coughlin, Justin
License ID: 01235229
License Type: Broker
Effective: 05/21/07

County Realty & Finance Inc
License ID: 01502161
License Type: Corporation
Effective: 08/06/07

Duran, Ulises
License ID: 01174357
License Type: Broker
Effective: 02/27/07

Hernandez, Rafael
License ID: 00883264
License Type: Broker
Effective: 08/06/07

Montecastro, Hendrix
License ID: 01159306
License Type: Broker
Effective: 07/09/07

Quinteros, Tatihana
License ID: 01236985
License Type: Broker
Effective: 08/06/07

S & H Financial Group, Inc.
License ID: 01345962
License Type: Corporation
Effective: 02/13/07

Sarup, Raj Prem Peter
License ID: 01096565
License Type: Broker
Effective: 03/15/07

Secured Equities
License ID: 01144136
License Type: Broker
Effective: 05/22/07

Stonewood Consulting
License ID: 01508039
License Type: Broker
Effective: 07/09/07

The Rose Fund Inc
License ID: 01361102
License Type: Corporation
Effective: 11/28/06

OAKLAND REGION

1st Option Mortgage
License ID: 01293585
License Type: Broker
Effective: 08/10/07

California Plan Inc
License ID: 00282378
License Type: Broker
Effective: 11/01/06

Calnet Finance & Investment
License ID: 01361975
License Type: Broker
Effective: 06/04/07

City Home Loans
License ID: 01303666
License Type: Broker
Effective: 05/23/07

Rosetti, Dino
License ID: 01116210
License Type: Broker
Effective: 08/10/07

Schneider, Michael
License ID: 00949185
License Type: Broker
Effective: 11/01/06

SACRAMENTO REGION

Salas, Martin
License ID: 01377165
License Type: Sales
Effective: 07/23/07

SAN DIEGO REGION

Contemprato, Leila Soto
License ID: 01181735
License Type: Sales
Effective: 10/26/06

La Porte, Brian
License ID: 01319650
License Type: Sales
Effective: 12/27/06

Lambert, Stephen
License ID: 01476159
License Type: Sales
Effective: 04/18/07

Sill, Jeffrey
License ID: 01295008
License Type: Sales
Effective: 12/27/06

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Catchings, Marvin Earl
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Effective: 06/18/07

Cervantes, Joe Louis
License ID: 00337902
License Type: Broker
Effective: 04/23/07

El Rancho Home Loans
License ID: 01100921
License Type: Corporation
Effective: 04/23/07

Guzman, Carlos
License ID: 00230123
License Type: Broker
Effective: 08/27/07

Mangione, Christopher
License ID: 01144267
License Type: Broker
Effective: 10/02/06

Tran, Richard
License ID: 00953879
License Type: Broker
Effective: 01/29/07

US National Bancorporation
License ID: 01268709
License Type: Corporation
Effective: 10/02/06

US National Lending
License ID: 01409093
License Type: Corporation
Effective: 10/02/06

Uttz, David Franklin
License ID: 00417325
License Type: Broker
Effective: 12/27/06

OAKLAND REGION

Conte, Alicia
License ID: 01757025
License Type: Sales
Effective: 08/10/07

Duffy, George
License ID: 01113800
License Type: Broker
Effective: 06/18/07

Hartman, Joan
License ID: 01150275
License Type: Broker
Effective: 05/17/07

Lam, Marks
License ID: 00622571
License Type: Broker
Effective: 06/04/07

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21st Century Financial Resources
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License Type: Broker
Effective: 08/02/07

Burton, Robert
License ID: 00416785
License Type: Broker
Effective: 08/02/07

LOS ANGELES REGION

Alberts, Joseph
License ID: 00748247
License Type: Broker
Effective: 05/28/07

American Benefit Mortgage
License ID: 01154701
License Type: Corporation
Effective: 01/29/07

An, George
License ID: 01145896
License Type: Broker
Effective: 11/14/06



Balyan, Jacqueline B.

License ID: 01349139
License Type: Broker
Effective: 08/13/07

Bernal, Helen Marie

License ID: 00525594
License Type: Broker
Effective: 10/19/06

Bullard, Timothy

License ID: 01147165
License Type: Broker
Effective: 01/29/07

Butler Realty Inc

License ID: 00707651
License Type: Corporation
Effective: 01/02/07

Butler, Charles Bailey

License ID: 00390073
License Type: Broker
Effective: 01/02/07

Capital Plus Financial Corp.

License ID: 01211839
License Type: Corporation
Effective: 11/20/06

Clarion Mortgage Capital Inc.

License ID: 01245811
License Type: Corporation
Effective: 05/22/07

Crouch, Sandra

License ID: 00456291
License Type: Broker
Effective: 02/08/07

Eagle Loan Service Inc.

License ID: 01308403
License Type: Corporation
Effective: 10/19/06

Ellis, Ronad Hoyd

License ID: 01007087
License Type: Sales
Effective: 12/27/06

Ellis, Ronald

License ID: 01007087
License Type: Broker
Effective: 12/27/06

Farias, Ruth Georgenne

License ID: 00522920
License Type: Broker
Effective: 06/05/07

Farias, Ruth Georgenne

License ID: 00522920
License Type: Broker
Effective: 03/29/07

First Capital Financial Resources, Inc

License ID: 01431123
License Type: Corporation
Effective: 08/13/07

Grand Capital & Assoc

License ID: 01381148
License Type: Corporation
Effective: 05/18/07

Hernandez, Julio C.

License ID: 01278490
License Type: Broker
Effective: 05/29/07

Hoaglund, Wesley Craig

License ID: 01263658
License Type: Broker
Effective: 05/08/07

Jalloh, Alfred S.

License ID: 00928198
License Type: Sales
Effective: 01/03/07

Jara, Francisco J.

License ID: 01296298
License Type: Broker
Effective: 05/08/07

JC Lending, Inc

License ID: 01348024
License Type: Corporation
Effective: 05/29/07

Jeynson, Richard

License ID: 00763300
License Type: Broker
Effective: 10/23/06

Kim, Melvin Lee

License ID: 00655811
License Type: Broker
Effective: 12/12/06

King, Grant Walker

License ID: 01192055
License Type: Broker
Effective: 10/23/06

Lanam, George Joseph

License ID: 00047515
License Type: Broker
Effective: 01/05/07

Lee, Chris Duck Yun

License ID: 01133316
License Type: Broker
Effective: 03/19/07

Lee, Rich S

License ID: 00894955
License Type: Broker
Effective: 10/02/06

Lenox Financial Mortgage Corporation

License ID: 01268086
License Type: Corporation
Effective: 05/08/07

Lipar, Douglas Allen

License ID: 01186463
License Type: Broker
Effective: 11/20/06

Merrill, Hildegard

License ID: 00378794
License Type: Broker
Effective: 03/07/07

NFN Group, Inc.

License ID: 01141788
License Type: Corporation
Effective: 05/28/07

Nguyen, Kim Dang

License ID: 00632389
License Type: Broker
Effective: 12/18/06

Norris, Dwight Edward

License ID: 00661373
License Type: Broker
Effective: 12/07/06

Pattenaude, Thomas Patrick

License ID: 01002506
License Type: Broker
Effective: 04/02/07

Peoples Discount Mortgage

License ID: 01340867
License Type: Corporation
Effective: 12/27/06

Richard, Troy W.

License ID: 01243436
License Type: Broker
Effective: 03/26/07

Shepherd, Markus Steven

License ID: 01130813
License Type: Broker
Effective: 06/04/07

Sim, Chris S

License ID: 00880071
License Type: Broker
Effective: 03/19/07

Stoic Capital Corporation

License ID: 01232706
License Type: Corporation
Effective: 04/02/07

Thacher, Robert Morton

License ID: 00364875
License Type: Broker
Effective: 06/08/07

Trust Deed Services Inc

License ID: 01259823
License Type: Corporation
Effective: 02/08/07

Vanderhorst, Fred John

License ID: 00673862
License Type: Broker
Effective: 07/11/07

Winsor, Michael James

License ID: 01315094
License Type: Broker
Effective: 05/22/07

OAKLAND REGION

Bowers, Gary

License ID: 00427534
License Type: Broker
Effective: 08/23/07

Bueno, Rafael

License ID: 01257812
License Type: Broker
Effective: 08/23/07

Century 21 Countrywide Inc

License ID: 01295695
License Type: Broker
Effective: 05/24/07

Dinh, Tony

License ID: 00949765
License Type: Broker
Effective: 05/24/07

Gross Mortgage Corporation

License ID: 01176591
License Type: Broker
Effective: 07/05/07

Gross, Leonard

License ID: 00531226
License Type: Broker
Effective: 07/05/07

Heyden, Randall

License ID: 00556887
License Type: Broker
Effective: 07/26/07

Huynh, Jackie

License ID: 01240685
License Type: Broker
Effective: 04/30/07

Kay-Co Investments Inc

License ID: 01235991
License Type: Broker
Effective: 12/19/06

Lewis, Andrew

License ID: 01137151
License Type: Broker
Effective: 08/22/07

Mowat, Lois

License ID: 00629210
License Type: Broker
Effective: 08/31/07

Nguyen, Ha

License ID: 01256922
License Type: Sales
Effective: 05/24/07

Vanderpool, Mark

License ID: 00756470
License Type: Broker
Effective: 08/23/07

SAN DIEGO REGION

Dickey, William

License ID: 01196449
License Type: Broker
Effective: 07/31/07

Eisele, Kirk D.

License ID: 01343965
License Type: Broker
Effective: 12/27/06

Holbrook, Daniel Robert

License ID: 00824495
License Type: Broker
Effective: 10/30/06

Kahn, Sydney Eric

License ID: 00967089
License Type: Broker
Effective: 11/20/06

Levine, Jay

License ID: 00806504
License Type: Broker
Effective: 12/18/06

Lingo, Kristopher

License ID: 00672316
License Type: Broker
Effective: 08/30/07

Loanstar Financial Corporation

License ID: 01260171
License Type: Broker
Effective: 12/10/06

Peninsula Equity Funding

License ID: 01291107
License Type: Broker
Effective: 08/30/07

The Atvantage Group Inc

License ID: 01208636
License Type: Corporation
Effective: 10/30/06

Ventura, Ignacio

License ID: 01406721
License Type: Sales
Effective: 12/18/06



W G D Real Estate Services
 License ID: 01382564
 License Type: Broker
 Effective: 07/31/07

LICENSE SURRENDERED
 (Licenses voluntarily surrendered per B&P Code §10100.2 during an administrative action/investigation)

LOS ANGELES REGION

Bui, Thuyhong T.
 License ID: 01022650
 License Type: Broker
 Effective: 04/02/07

CIS Realty
 License ID: 01402083
 License Type: Corporation
 Effective: 05/07/07

Emerald Mortgage Corporation
 License ID: 01166909
 License Type: Corporation
 Effective: 06/04/07

Jamison-Dixon, Antwanne Franklin Otto
 License ID: 01002097
 License Type: Broker
 Effective: 12/19/06

LB Net, Inc.
 License ID: 01403105
 License Type: Broker
 Effective: 05/02/07

Lofton-Puckett-Jamison-Dixon, DoReithia Courtney Jameigh
 License ID: 01701016
 License Type: Broker
 Effective: 12/19/06

Mortgage Marketing Inc
 License ID: 01440267
 License Type: Corporation
 Effective: 07/11/07

New American R.E. Mgmt Group
 License ID: 01259133
 License Type: Corporation
 Effective: 10/11/06

Pony, Eric
 License ID: 01324854
 License Type: Sales
 Effective: 09/10/07

Storm, Dean
 License ID: 01134881
 License Type: Broker
 Effective: 09/10/07

SACRAMENTO REGION

Fellini, Mario
 License ID: 01766228
 License Type: Broker
 Effective: 07/23/07

PUBLIC REPROVAL

LOS ANGELES REGION

Butler, Sylvia
 License ID: 00748668
 License Type: Sales
 Effective: 01/02/07

Dunkee Financial Corporation
 License ID: 01167064
 License Type: Corporation
 Effective: 05/08/07

Sambrano, Anthony
 License ID: 01127464
 License Type: Broker
 Effective: 05/08/07

Secured Horizon Financial Group, Inc
 License ID: 01308651
 License Type: Corporation
 Effective: 01/30/07

Smith, Clement
 License ID: 00892390
 License Type: Broker
 Effective: 12/11/06

ORDER TO DESIST & REFRAIN

FRESNO REGION

Becerra, Jose
 License ID: N/A
 License Type: Unlicensed
 Effective: 05/03/07

LOS ANGELES REGION

Manning, Aril Lee
 License ID: 00904085
 License Type: Broker
 Effective: 07/16/07

Stonewood Consulting
 License ID: 01508039
 License Type: Broker
 Effective: 05/29/07

OAKLAND REGION

Booker, Carleton
 License ID: 01242461
 License Type: Sales
 Effective: 05/03/07

Patel, Amjad
 License ID: N/A
 License Type: Unlicensed
 Effective: 06/12/07

SACRAMENTO REGION

Harris, Thomas
 License ID: N/A
 License Type: Unlicensed
 Effective: 04/10/07

Thomas, Bruce
 License ID: N/A
 License Type: Unlicensed
 Effective: 01/19/07

Income verification express service (IVES) processing

provided courtesy of the Internal Revenue Service

In October 2006, the Internal Revenue Service began the Income Verification Express Service (IVES) program, offering electronic delivery of IRS transcripts and records available upon submission of IRS **Form 4506-T, Request for Transcript of Tax Return**.

IVES provides two-business day processing and delivery of return transcripts. The new service replaces the existing process that required manual pick-up and delivery of transcripts from the IRS Return and Income Verification Services (RAIVS) units located across the country.

The new service automates the delivery portion of the process. Customers must now log on to **www.IRS.gov** to retrieve their requested transcripts from a secure mailbox located on the e-Services electronic platform.

The "front end" of the process remains the same. Customers will still need to fax the signed Form 4506-T, Request for Transcript of Tax Return, to the one of the three designated RAIVS units.

For details on participation in the IVES program and submission of requests, including fees and payments, please refer to **www.IRS.gov** (keyword IVES).



New Mortgage Disclosure Statement

Continued from page 1

tion that may not be fully understood by the borrower without a full and complete explanation by his or her loan officer. It is incumbent on all licensees when offering these products to completely discuss the details of the loan and the comparison of sample mortgage features that is part of the disclosure form.

Part XV of RE 885 (page 3) is entitled, "Comparison of Sample Mortgage Features." The broker must make a good faith effort to provide current comparison information for each of the sample products. This sec-

tion must be completed in its entirety. The use of "not applicable," "product not offered," or similar entries are not sufficient. "Instructional Guide for Nontraditional Loan Disclosure" is available for assistance in the completion of page 3.

The new disclosure form and instructional guide can be found on the DRE Web site at **www.dre.ca.gov**. RE 885 will also be available in Spanish, Tagalog, Chinese, Vietnamese and Korean. Questions regarding the form should be directed to the Mortgage Loan Activities Unit at (916) 227-0770.

FHASecure refinance loans available

from U.S. Housing and Urban Development

The U.S. Department of Housing and Urban Development (HUD) has announced the availability of refinance loans to homeowners whose adjustable rate mortgage loans have reset or will reset to unaffordable levels. The following is a reprint of the Frequently Asked Questions for the Housing Industry from the HUD Web site at www.fha.gov.

General Questions

What is the expected impact of FHASecure?

From 2007-2009, 2.3 million adjustable rate mortgages are expected to reset, nearly a quarter of which will be at risk of foreclosure. FHA believes that FHASecure will be able to assist approximately 80,000 borrowers who are delinquent due to their loan resetting, as well as 160,000 borrowers who are facing reset but are still current on their mortgage. By offering FHASecure and other refinancing programs, FHA could help 240,000 borrowers facing reset.

What is the value of the FHASecure program to lenders?

Only FHA-approved lenders can originate FHASecure loans. FHASecure could benefit lenders by helping them avoid foreclosure expenses. Even if a lender takes a short payoff in order to originate an FHASecure loan, it is still less expensive than foreclosure and disposition of the property.

What advice should loan servicers/lenders give borrowers who are facing difficulty prior to ARM reset? How can FHA help borrowers who are delinquent prior to reset?

Loan servicers and lenders can advise borrowers who are current on their non-FHA adjustable rate mortgage to consider refinancing to an FHA insured mortgage. For those borrowers who may owe more than their property is worth, lenders have the option of placing a second lien on the property that when combined with the first lien exceeds

the property's value as well as FHA's geographical loan limits.

Although FHA cannot help borrowers who are delinquent prior to reset, there may be other options available. Many lenders have successfully provided loss mitigation assistance to borrowers, and a number of states are considering foreclosure avoidance programs. Lenders should provide information to borrowers on possible options, including contacting a HUD-approved housing counseling agency. To find a HUD-approved housing counseling agency, borrowers may call 1-800-569-4287 or visit www.hud.gov/offices/hsg/sfh/hcc/hccprof14.cfm.

By offering FHASecure and other refinancing programs, FHA could help 240,000 borrowers facing reset.

When can we start originating FHASecure loans?

Applications may be taken starting September 5, 2007 thru December 31, 2008.

Eligibility and Underwriting Issues

How does FHA define reset? Does the definition include ARMs that reset at different time intervals (six months, annually)?

FHA has purposely not defined reset because it understands that there are various reset periods associated with non-FHA adjustable rate mortgages.

Under the FHASecure, are there restrictions on secondary financing, seasoning requirements for existing liens and/or a limit on the combined loan to value (CLTV) ratio?

Except as noted in Mortgagee Letter 2007-11, FHASecure does not change FHA's underwriting requirements.

Therefore, existing FHA policies regarding secondary financing are applicable: repayment terms of the second must not have a prepayment penalty or provide for a balloon payment before 10 years; any periodic payments due on the second mortgage are due monthly and are essentially the same in dollar amount; and the first and second liens cannot exceed the borrower's reasonable ability to pay (HUD Handbook 4155.1 REV-5, paragraph 1-13 C 2 and 3). However, second mortgages that are deferred for no less than 36 months need not be considered in the qualifying ratios. As a reminder, the FHA insured mortgage must be in the first lien position.

Under FHASecure, there is no CLTV limit or a seasoning requirement for purchase money seconds. However, lenders are again reminded of existing FHA policy: if any portion of the funds of an equity line of credit in excess of \$1,000 was advanced within the past 12 months and was used for purposes other than repairs and rehabilitation of the property, the line of credit is not eligible for inclusion in the new FHA mortgage (HUD Handbook 4155.1 REV-5, paragraph 1-11 A 2).

Will FHA adjust its Credit Watch termination policies for lenders who participate in FHASecure lending?

FHASecure does not change FHA's underwriting guidelines, and FHA does not expect to see higher default and claim rates with these loans. As with all its programs, FHA will pull files in declining markets at a greater frequency as part of its normal risk management strategy.

Is there any leeway in FHA's definition of "current" in the six months prior to reset? Must borrowers be current on all obligations in the six months prior to reset?

Borrowers must have paid their mortgage payment within the month

Continued on page 7

FHASecure

Continued from page 6

due for the six months prior to reset, and must meet FHA's standard underwriting criteria as it relates to all other aspects of the loan.

Are there special underwriting requirements for the FHASecure program? Is there model language, i.e. for the underwriter's "remarks" regarding a borrower's inability to pay after reset?

There is no model language for underwriters or special instructions for completing the Mortgage Credit Analysis Worksheet (MCAW) outside of what is already available regarding refinance transactions, which is located on page two of the MCAW. Furthermore, all borrowers being considered for FHASecure must meet FHA's standard underwriting criteria.

With FHASecure lenders can include delinquent payments in the mortgage amount but the Mortgagee Letter does not address servicing costs accrued by homeowners, for example the cost of inspections. Can lenders include these types of costs as well or does the homeowner have to pay them out of pocket?

The items listed in the Mortgagee Letter are examples of what may be included in the new mortgage. Lenders may also include other reasonable and customary costs that are standard servicing practices and are included in all payoff statements.

Are there a maximum number of months of delinquent payments that a lender can roll into the new mortgage?

No. Homeowners with sufficient equity in their property may include the entire delinquency into the first mortgage as long as doing so does not result in exceeding the maximum FHA loan-to-value ratios and the loan limits for the area.

Will there be marketing brochures on the FHASecure program to provide to the public?

Yes. FHA is currently developing Fact Sheets and promotional brochures for both lenders and consumers.

Where can I find the additional guidance on FHASecure?

Guidance was published in Mortgagee Letter 2007-11, which can be found on FHA's Web site at www.fha.gov or www.hud.gov/offices/hsg/mltrmenu.cfm. The Mortgagee Letter permits consideration of delinquent borrowers and

secondary financing by the lender. FHA has not changed its other underwriting policies and borrowers must still meet standard FHA underwriting criteria.

Are interest-only non-FHA insured loans eligible for FHASecure?

If the loan is a non-FHA adjustable rate mortgage, it is eligible for FHASecure. At this time, interest-only fixed rate non-FHA mortgages or such mortgages with buy down features incorporated into the interest rate or payment options are not eligible. For now, FHA is keeping the focus for FHASecure on adjustable rate mortgages but may consider other types of non-FHA insured mortgages in the future.

Can FHA assist borrowers who are current on their mortgage but facing an ARM reset?

Yes. Although FHASecure is limited to borrowers who are delinquent because of a non-FHA ARM reset, FHA's standard refinancing programs can assist borrowers who are current. Lenders are permitted to offer a second mortgage to those borrowers who are current but owe more than what their property is worth. As with FHASecure, this authority for secondary financing is only applicable for non-FHA ARMs that will or have reset and applications must be taken between September 5, 2007 and December 31, 2008.


Appraisal Issues

Will there be an increased emphasis on FHA review of appraisals?


As noted in Mortgagee Letter 2007-11, FHA will be focusing more attention on reviewing appraisals in declining markets.

Will there be any changes to appraisal protocols since appraised values are declining?

Mortgagee Letter 2007-11 reiterates FHA's existing guidance to mortgage lenders to ensure that appraisers are providing accurate property valuations. A declining market could be as small as a neighborhood or as large as an entire state, and no standard definition exists other than home prices are falling.

Answers to questions and additional information about this program are available through the FHA Resource Center at (800)CALLFHA. 

Re-design of mortgage loan/home buyer web page

The DRE Web site has undergone a re-design as part of the state level effort to align the appearance and behaviors of the various state agency Web sites. DRE's mortgage lending Web page has been labeled "Home Buying and Mortgages." The consumer and industry sections contain publications, links to mortgage-related Web sites and other useful information. 



Subprime lending forum: current enforcement, litigation and best practices

by John Lingvall, California Bankers Association

With market turbulence and regulatory scrutiny growing daily, all lenders need to stay abreast of the latest expectations and guidance as well as the legal and regulatory exposure surrounding subprime lending. The Federal Reserve, FDIC, OCC, OTS, state agencies and attorneys general are each looking at lender practices. Your reputation, and your very survival, requires anticipating how and to what extent you will meet rising expectations. Class action lawsuits, enforcement actions, and volatile market conditions demand your attention.

Unlike other lending crises (Savings & Loan, general real estate), litigation plays an unusually large role this year. The recent settlement with Ameriquest (\$325 million) and the lawsuits filed against mortgage originators, warehouse lenders, and investment bankers point to an unusually litigious environment for everyone. Navigating these hazards may be your key to success or even survival.

To help you see through the issues, the California Bankers Association (CBA) is hosting two half-day seminars. The first will be in Emeryville, California on November 28th, and the second in Anaheim, California on November 29th. The purpose of these seminars is to bring together industry leaders to share perspectives, best practices, and the latest intelligence on this vital piece of the market.

The seminar is divided into three parts, with representatives from the state and federal government. The intent of the first panel will be to share the direction of new enforcement activity; including feedback from the Federal Reserve's first targeted examinations of subprime mortgage lenders.


A highlight of the seminar will be the second panel, which will review the current enforcement and litigation front. Barry Richard, a senior partner with Greenberg Traurig (GT), will speak to how juries may see this conflict. Barry will be joined by Bob Horwitz, head of GT's securities litigation practice. Barry and Bob will discuss how you can reduce your litigation risk.

Finally, the seminar will discuss the pragmatic questions everyone is asking: what are today's, and what will be tomorrow's, best practices. Charles Grice, an industry consultant, and Ellen Marshall, partner with Manatt Phelps and a specialist in legal issues affecting subprime lenders, will detail "lead-

ing practices" and "best practices" for mortgage companies and banks.

For more information or to register, click here. http://www.calbankers.com/content/event_detail.asp?EventID=1045.

If you have any questions, please contact John Lingvall, VP, Education & Training, California Bankers Association at (916) 438-4428 or via e-mail at jlingvall@calbankers.com.

Please note, as this is not a government sponsored event, publication of this announcement should not be considered an endorsement by the Department of Real Estate. 


Commissioner's Message

Continued from page 1

as well as the Statement on Subprime Mortgage Lending. These were followed by a similar guidance issued by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for state regulatory agencies which oversee state licensed mortgage lenders and brokers. I encourage all real estate licensees involved in the mortgage field to familiarize themselves with these documents and adopt their best practices as applicable, which include helpful disclosures to consumers that will assist them in making a more informed decision. In this regard, the Department of Real Estate (DRE) has issued regulations providing for added disclosures for nontraditional loans. Licensees should familiarize themselves with these as well as future regulation proposals, as they become available on the DRE Web site at www.dre.ca.gov.

As to the Guidance and Statement, they can be found at www.aarmr.org/pdf/CSBS-AARMR%20Final%20Guidance.pdf and http://www.csbs.org/Content/NavigationMenu/RegulatoryAffairs/MortgagePolicy/Final_CSBS-AARMR-NACCA_StatementonSubprimeLending.pdf.

We should all strive to rid our industry of individuals who violate the law. If you become aware of an incident of mortgage related fraud or misconduct by a licensee, please report it to the DRE. I intend to continue to pursue disciplinary action against those real estate licensees who take advantage of consumers and fail to comply with regulatory requirements.

Your assistance and compliance is appreciated. 

DRE taking formal action for false advertising


Department of Real Estate (DRE) licensees who advertise their mortgage services or loan programs are subject to the requirements of the Real Estate Law and Regulations of the Real Estate Commissioner. These requirements prohibit advertising that is false, misleading or deceptive. DRE's advertising rules are contained in the "Mortgage Loan Broker Compliance Evaluation Manual" available on our Web site at www.dre.ca.gov under "Publications" or in the industry section of "Home Buying and Mortgages". The manual also makes reference to the specific statutes and regulations for a complete review.

In general, when DRE sees an advertisement that is considered false, misleading or deceptive, or is otherwise non-compliant with the rules, or receives a complaint about such an advertisement, a corrective action letter generally is sent to the broker or designated officer (DO) in the case of a licensed corporation. Brokers and DO's in their supervisory capacity are responsible for any advertising done by their salespeople. The corrective action letter will typically cite the violation(s) found in the ad and request that the advertising be stopped until it is corrected. The DRE will ask for the broker's or DO's written acknowledgement that the violations have been corrected. In the large majority of cases compliance is obtained and no other action is taken. However, there are cases where the broker or DO fails to reply to the corrective action letter or continues to use non-compliant advertising. In these cases the DRE will seek more formal action to halt the false advertising, including, but not limited to the issuance of a desist and refrain order or an accusation. As of the date this article was prepared, more than 50 requests for formal action have been forwarded by the Mortgage Loan Activities Unit to

our district enforcement offices this calendar year. License discipline has been obtained in several cases thus far and more are expected.

A common response from a licensee who received a corrective action letter is that they merely copied what other brokers were using and assumed it was compliant. The DRE recommends that another company's advertising never be copied and to never assume it is compliant with DRE's rules. There are marketing companies that create advertising meant to grab consumers' attention, but pay little or no attention to the laws and regulations that pertain to licensees. Some brokers and DO's have told us in their responses that they were told by the marketing company the advertisement was approved by the DRE which was not the case.

It should be noted that brokers and DO's can voluntarily submit their proposed advertising to the DRE for approval by using the "Mortgage Loan Advertising Submittal" (RE 884), along with three (3) copies of the proposed advertisement and the requisite \$40.00 fee. Once approved, the advertisement is *conditionally* approved for 5 years. The Mortgage Loan Activities Unit is available to discuss with licensees their proposed advertising and refer them to the appropriate laws and regulations. While we are unable to approve advertising over the telephone the advice can save time and help to avert potential problems.

When the DRE seeks formal action in the form of a Desist and Refrain Order and/or an Accusation seeking license discipline, it begins an administrative process that can impact a licensee financially and create a permanent public record of the action. The Mortgage Loan Activities Unit can be reached at (916) 227-0770 for your advertising questions. 

Information for taxpayers in foreclosure

provided courtesy of the Internal Revenue Service

The IRS has developed information and Web resources to assist taxpayers with the tax issues presented by foreclosure.

Key Points:

- The Internal Revenue Service unveiled a special new section on www.IRS.gov for people who have lost their homes due to foreclosure.
- The IRS also reassured homeowners that although mortgage workouts and foreclosures can have tax consequences, special relief provisions can often reduce or eliminate the tax bite for financially strapped borrowers who lose their homes.

Resources:

- IR 2007-159 – The news release IR 2007-159 provides additional background. The news release and FAQs can also be found at: <http://www.irs.gov/newsroom/article/0,,id=174022,00.html>

The direct link to the FAQs is: <http://www.irs.gov/newsroom/article/0,,id=174034,00.html>. 